

UNITED STATES DISTRICT COURT

Northern District of California

MAXIM REALTY AND LOANS, INC.,

No. C 12-0401 MEJ

Plaintiff,

ORDER TO SHOW CAUSE

v.

MALOU RIVERA,

Defendant.

On January 25, 2012, Defendant Malou Rivera removed this unlawful detainer action from Fremont County Superior Court. However, an unlawful detainer action does not arise under federal law but is purely a creature of California law. *Wells Fargo Bank v. Lapeen*, 2011 WL 2194117, at *3 (N.D. Cal. June 6, 2011); *Wescom Credit Union v. Dudley*, 2010 WL 4916578, at *2 (C.D. Cal. Nov. 22, 2010). Thus, it appears that jurisdiction is lacking and the case should be remanded to state court. Accordingly, the Court ORDERS Defendant Malou Rivera to show cause why this case should not be remanded to the Fremont County Superior Court. Defendant shall file a declaration by February 16, 2012, and the Court shall conduct a hearing on March 1, 2012 at 10:00 a.m. in Courtroom B, 15th Floor, 450 Golden Gate Avenue, San Francisco, California. In the declaration, Defendant must address how this Court has jurisdiction over Plaintiff's unlawful detainer claim. Defendant should be mindful that an anticipated federal defense is not sufficient to confer jurisdiction. *Franchise Tax Bd. of California v. Construction Laborers Vacation Trust*, 463 U.S. 1, 10 (1983).

IT IS SO ORDERED.

Dated: February 1, 2012



Maria-Elena James
Chief United States Magistrate Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

MAXIM REALTY AND LOANS, INC.,

Case Number: CV12-0401 MEJ

Plaintiff,

v.

CERTIFICATE OF SERVICE

MALOU RIVERA,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 1, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Malou Rivera
3328 Red Cedar Terrace
Fremont, CA 94536

Dated: February 1, 2012

Richard W. Wieking, Clerk
By: Brenda Tolbert, Deputy Clerk